



## **Battle Creek Zoning Board of Appeals**

### **Staff Report**

Meeting: April 9, 2013  
Appeal #Z-02-13

**To:** Zoning Board of Appeals  
**From:** Glenn Perian, Senior Planner  
**Subject:** Petition for a dimensional variance (Z-02-13) to permit the construction of a parking lot, waiving the 10' buffer strip requirement between parking lots and the public right-of-way.

#### **Summary**

This report addresses a petition from A.J. Jones, on behalf of Family Health Center of Battle Creek, seeking approval of a Dimensional Variance (Z-02-13), to waive the 10' buffer requirement between parking areas and the street right-of-way to construct an over-flow parking area for the Family Health Center (FHCBC) on property located adjacent to 8 Buckeye Street at the corner of W. Emmett and Hanover Street. The variance is only being requested along the south property line along E. Emmett. This is only a part of the approval process for the proposed parking lot as the Appellant has already made application for a Special Use Permit for the lot and is awaiting approval from the City Commission upon recommendation from the Planning Commission.

#### **Background/Project Information**

Some of you may recall that the Applicant applied for and was granted a variance for the property at the corner of Buckeye Street and W. Emmett Street back in 2010. They also applied for and received a Special Use Permit from the City Commission for an overflow parking lot for the FHCBC campus. That residential lot was approximately 60 feet wide by 132 feet deep and a variance was granted to develop that lot for parking purposes due to the narrowness of the lot. It was the hope and plan in 2010 that the subject property for this request would be acquired and developed as part of an overflow lot in conjunction with the property at Buckeye and W. Emmett Street.

The subject property is located in the C-3 "Intensive Business District" and the minimum lot standards of 5,000 square feet of land area and 60 feet of width is in compliance with the zoning code. The topography of the lot is generally flat with no observable grade changes. The subject site is comprised of four parcels located on the northwest corner of Hanover and W. Emmett Streets, two blocks east of N. Washington Avenue. The parcels as a whole are .45 acres in size with 128' of frontage along Hanover and 165' of frontage along W. Emmett Street. Parcels number 1 and 4 on the following map previously each contained a structure; one was a commercial barber shop, the other an apartment house. Parcel number 2 is an existing parking lot. Parcel number 5 is a vacant parcel that received the special use permit and zoning variance in 2010 for a parking lot for the FHCBC that this report will identify as the "Buckeye property".



The minimum front yard setback for structures in the C-3 district is twenty (20') feet with a 10' buffer between parking areas and the street right-of-way also required. As you can see from the site plan attached to this report, the request for this property is to connect with the approved parking lot at the "Buckeye property" and to provide additional parking on the subject property with a drive aisle running between Hanover Street and Buckeye, parallel to W. Emmett Street. The proposed parking lot construction is part of an overall improvement plan that includes a building expansion for women's services and the request is to waive the 10' buffer required on the southernmost portion of the property between the proposed parking area and W. Emmett Street, as was done in 2010 for the "Buckeye property".

### **Legal Description**

**156 W. Emmett St. (Parcel #3920-00-001-0)** legally described as: HAUGHEYS ADD E 30 FT OF W 63 FT OF S 80 FT OF LOT 1; **(Parcel #0660-00-011-0)** legally described as: SEC 1 T2S R8W COMM SE COR LOT 6 OF A R HENRYS ADD S 33 FT TO TRUE POB S ALG W LI OF HANOVER ST 94.71 FT WLY ALG N LI OF EMMETT ST 95 FT N 94.71 FT ELY 95 FT TO POB; and **(Parcel #0660-00-013-0)** legally described as: SEC 1 T2S R8W BEG SW COR OF A. R. HENRY'S ADD - ELY ALG S LI LOT 6, 33 FT- S 33 FT - ELY PAR WITH S LOT LI 4 FT - S 94.71 FT - WLY ALG N LI EMMETT ST 37 FT- N 127.71 FT TO POB; ALSO E 3 FT OF S 127.71 FT OF LOT 1 OF HAUGHEY'S ADD.

### **Public Hearing and Notice Requirements**

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, March 21, 2013 – not less than the 15 days before the hearing as required by State Law and ordinance.



Notices of the public hearing were also sent by regular mail on February 21, 2013 to 47 property owners and occupants located within 300 feet of the subject parcel. Planning staff has received no comments relative to this request.

Additionally, the petitioner attended the February 11, 2013 Neighborhood Planning Council #2 to present the request, and there was unanimous support for this project, as well as the overall expansion project from the FHCBC.

The overall expansion project was also presented to the Historic District Commission as well as a request for demolition of the two structures on the property. The request for demolition and the construction of the new parking lot was approved by the HDC citing the improvements to the properties and the overall neighborhood.

### **Surrounding Land Uses**

The subject property is generally located in a well established neighborhood with the Family Health Center campus to the south, residential uses to the north, vacant and non-residential uses to the immediate east, and a church to the immediate west.

### **Applicable Zoning Ordinance Provisions**

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier

action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

### **Analysis and Recommendation**

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a waiver from the 10' buffer requirement between a parking area and the street right-of-way that would authorize the construction of an overflow parking lot for FHCBC as part of an overall improvement plan that includes a building expansion for women's services on the main campus and this proposed parking lot across the street. The Appellant has stated in the supporting material that the lot, because of its size and shape would be difficult to develop and that the proposed parking lot would not be out of character of other properties in the neighborhood. The Appellant has supplied additional reasons supporting the request for appeal and they are included with the application and part of this report. A site plan for the proposed parking lot has also been provided.

Is there something unique about this lot or property that makes relief necessary? We would agree that the lot area and width of the subject property in conjunction with the previously approved 'Buckeye property' would make development of this particular property difficult. We would also suggest that the location of this lot is on the fringe of office/commercial uses, consistent with the proposed parking lot use.

### **Findings and Recommendation**

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances. Therefore, the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variance (Z-02-13) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the Ordinance is applied to this specific building (parking) project and that the Board is authorized to approve the variance in this case. The practical difficulty from failure to grant the variance will not include substantially more than a mere inconvenience in this case. In order to line up the drive aisle for the parking lot on this property with the previously approved "Buckeye property" will allow for safe and smooth traffic movements within the entire parking lot as a whole.

- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the narrowness of the entire property as a whole does not exist throughout the City. The request to move the entire lot towards E. Emmett Street to provide safe traffic movements within the parking lot while maintaining/providing proper buffering to the properties to the north.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will not be altered or that the rights of others will be compromised in that the commercial/parking nature of the property is being developed as far south and away from neighboring properties to the north as possible.
- D) Staff believes that the variance requested does not exceeds the minimum necessary to provide relief from any stated practical difficulty in that the intent of this request is to line up the parking lot drive aisle with the Buckeye property to the west to provide a safe parking facility for FHCBC.

Attachments:

The following information is attached and made part of this Staff Report.

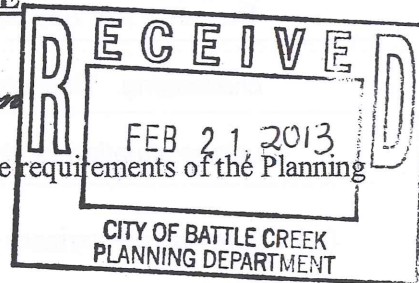
1. ZBA Petition Form (Petition #Z-02-13)
2. Site plan of proposed parking facility



Date: Feb. 21, 2013

Appeal No. Z-02-13

**APPLICATION FOR A VARIANCE**  
**ZONING BOARD OF APPEALS**  
*City of Battle Creek, Michigan*



An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Family Health Center of Battle Creek

Address: 181 W. Emmett Street Phone: (269) 965-8866

Name of Owner (if different from Appellant): Same

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**TO THE ZONING BOARD OF APPEALS:** Request is hereby made for permission to:  
(Choose One)      **Extend**      **Erect**      **Waive**      **Use**      **Convert**      **Enclose**

Description:  
Family Health Center of Battle Creek requests that the requirement for a ten foot wide landscape strip  
along Emmett Street be waived.

Contrary to the requirements of Section(s) 1278.05 (a) of the Planning and Zoning Code, upon the premises known as 156 W. Emmett St. Battle Creek, MI, in accordance with the plans and/or plat record attached.

**The proposed building or use requires Board action in the following area(s):**  
Elimination of landscape strip requirement along Emmett Street in conjunction with improved

Family Health Center parking lot.

3920-00-001-0, 0660-00-011-0, 0660-00-013-0

Property/Tax I.D. # No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Size of the Lot: Width 165' Depth 128'

Size of Proposed Building: Width N/A Depth \_\_\_\_\_ Height \_\_\_\_\_

**The following reasons are presented in support of this appeal (complete each section):**

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:  
Family Health Center wishes to align the parking on this parcel with the previously-approved  
parking lot proposed for the parcel immediately to the west. Maintaining a buffer along  
Emmett Street would require an awkward layout and lessen the usefulness of the parcel by  
significantly reducing the efficiency. Meeting the requirement would lead to poor traffic  
navigation and increase the difficulty of snow removal.

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

The small and odd parcel shapes make developing an efficient parking lot layout

challenging. This, combined with the need to connect to the parcel to the west creates a

unique situation for the Family Health Center in redeveloping these parcels.

- (c.) Granting the variance would not alter the essential character of the area because:

The existing parking lot and building on the subject parcels currently extend to

the sidewalk at the Emmett Street right of way. Other parking lots in the immediate area

also extend to the right of way including the Federal Center's parking lots on Manchester St.

- (d.) The problem is not self-created because:

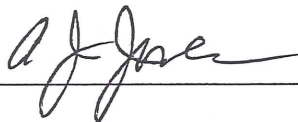
The size and shape of the parcels dictated the layout of the parking lot as shown.

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

*I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. **In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.***

AJ Jones

(Print Appellant Name)



(Signature of Appellant)

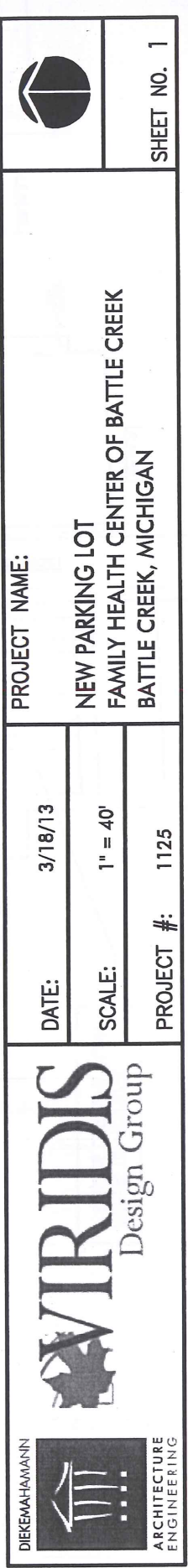
181 W Emmett St, Battle Creek MI 49037




(Address of Appellant)

***If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.***

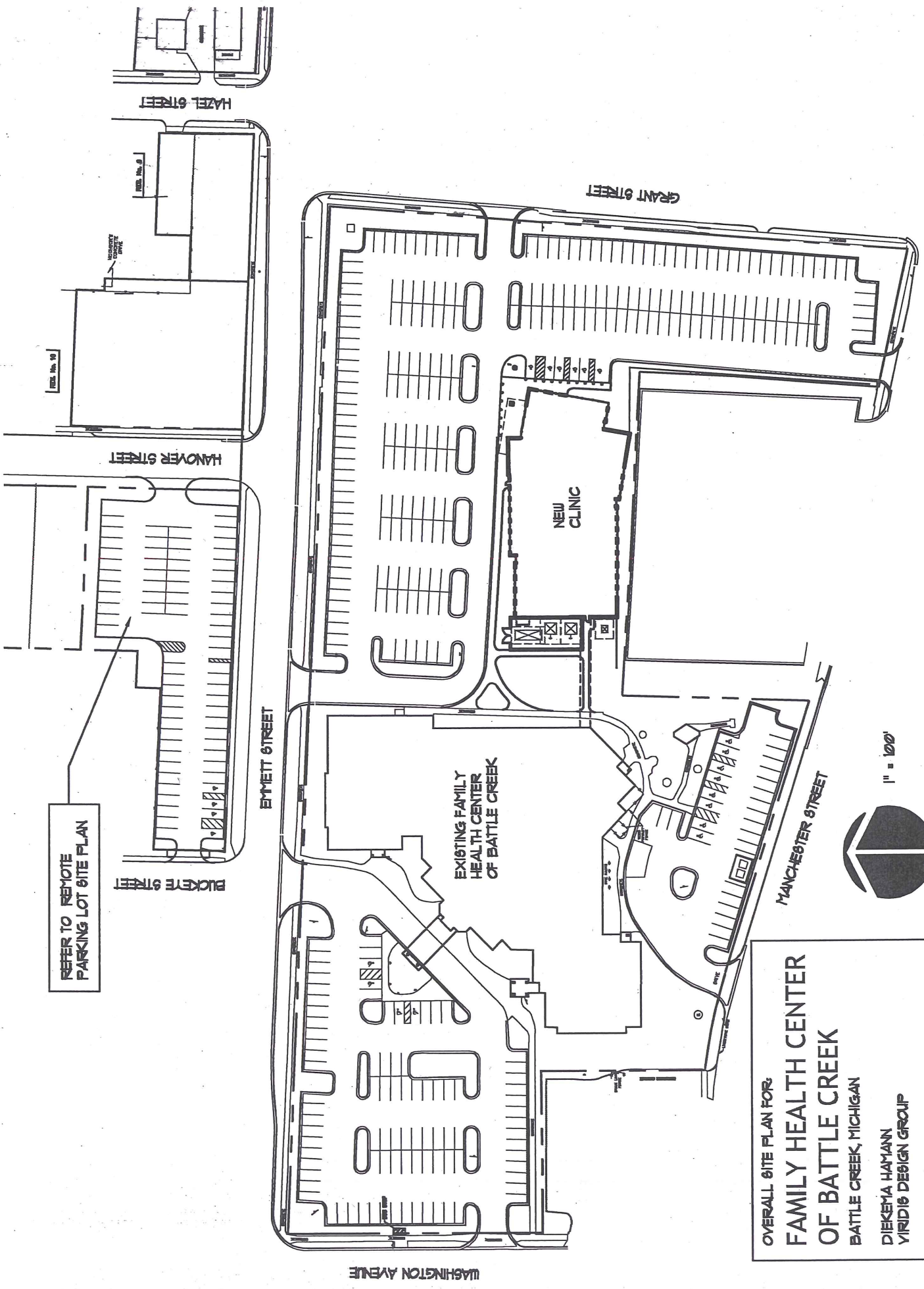


**3. PARKING LOT  
CONTAINS 74 TOTAL  
PARKING SPACES  
INCLUDING 4  
BARRIER FREE  
SPACES.**



 <b>DIEKENHARTMANN</b>				
	<b>DATE:</b> 3/18/13		<b>PROJECT NAME:</b>  <b>NEW PARKING LOT</b> <b>FAMILY HEALTH CENTER OF BATTLE CREEK</b> <b>BATTLE CREEK, MICHIGAN</b>	
	<b>SCALE:</b> 1" = 40'			
	<b>PROJECT #:</b> 1125			
<b>ARCHITECTURE</b> <b>ENGINEERING</b>		<b>SHEET NO. 1</b>		





OVERALL SITE PLAN FOR:  
**FAMILY HEALTH CENTER  
OF BATTLE CREEK**  
BATTLE CREEK, MICHIGAN  
DIEKEMA HAMANN  
VIRIDIS DESIGN GROUP  
3/10/2013